

REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL

JANUARY 22, 2013

KENDALL-DEAN SCHOOL AUDITORIUM

7:00 P.M.

OPEN FORUM

Business Highway Zone Changes

Mr. Steven Wowk was not going to be able to stay for the discussion on the Business Highway zone changes so he reiterated the concerns he has spoken about at past meetings.

DISCLAIMER

Mr. Flaherty read the following: “It is the board’s understanding that this meeting is being videotaped for future broadcast on cable television. Please be advised that this videotaping is being done by private citizens. It is not being done on behalf of the town nor is the Town of North Smithfield responsible or affiliated with it. It is not a public record. The Town of North Smithfield especially disclaims any liability for the contents or the accuracy thereof.”

REGULAR MEETING

The meeting began at 7:00 P.M. with the prayer and the pledge to the flag. Council members present were Mr. McGee, Mr. Yazbak, Mr. Zwolenski and Mr. Flaherty. Ms. Alves was unable to attend due to a work commitment. Town Administrator Hamilton and Town Solicitor Lombardi were also in attendance.

RULES OF TOWN COUNCIL

Mr. Zwolenski asked that Rule No. 14 include the pledge to the flag as well as the prayer. He also asked that Rule No. 16b be amended to

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read, “All ordinances must be reviewed by the Town Solicitor or Assistant Town Solicitor etc.”

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 3 to 1 (Mr. Yazbak voted no) on an aye vote to accept the rules as amended.

ZONING ORDINANCE AMENDMENT RE: GROUNDWATER AQUIFER PROTECTION OVERLAY DISTRICT

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 4 to 0 on an aye vote to continue this matter to February 4, 2013.

ZONING ORDINANCE AMENDMENT RE: WETLAND SETBACKS FOR ONSITE WASTE WATER TREATMENT SYSTEMS, OWTS, BUILDINGS AND IMPERVIOUS SURFACES

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 4 to 0 on an aye vote to continue this matter to February 4, 2013.

EXECUTIVE SESSION

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted unanimously on a roll call vote to enter into executive session at 7:07

P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation or work sessions pertaining to collective bargaining or litigation to discuss school department collective bargaining negotiations with the NSASSP and the NSTA and also pursuant to RIGL 42-46-5(A)(3) Discussion regarding the matter of security including but not limited to the deployment of security personnel or devises to discuss school department building and student safety security measures.

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on a roll call vote to come out of executive session at 7:33 P.M. and to seal the minutes. No motions were made and no votes were taken.

REVALUATION

Mr. Robert Battey, project manager with Northeast Revaluation Group, explained the process of revaluation in North Smithfield. People will be able to go on line to view their assessments and those of other homeowners. All sales for the last two years will also be put on line. Informal hearings will be held beginning on February 14, 2013. Mr. Battey also explained the process for those people who dispute their assessment.

CONSENT AGENDA

MOTION by Mr. Yazbak, seconded by Mr. McGee and Mr. Zwolenski, and voted 4 to 0 on an aye vote to remove payment of bills from the

consent agenda.

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 4 to 0 on an aye vote to remove the minutes of December 3rd from the consent agenda.

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 4 to 0 on an aye vote to approve: 1.) Council minutes of December 1, 6, 7, 8 and 12; 2.) Resignation of Steven D'Agostino from the Sewer Commission; 3.) Historic District Commission minutes of November 19, 2012; 4.) Personnel Board minutes of September 10, 2012; Animal Control Monthly Report for December 2012; 5.) Animal Control Annual Report for 2012; 6.) NSF&RS Inc. Monthly Incident Report for December 2012; 7.) NS Police Dept. Monthly Activity Report for December 2012; and 8.) NS Municipal Court Monthly Activity Report for December 2012.

Payment of Bills

MOTION by Mr. McGee, seconded by Mr. Zwolenski, and voted 3 to 0 (Mr. Yazbak abstained because he has a client on the list) on a roll call vote to approve payment of the following bills: General Fund - \$413,773.22; Sewer - \$129,620.78; Water - \$42,244.12; School Department - \$1,498,072.00; and Fire Department - \$195,147.00 for a total of \$2,278,857.12.

Minutes of December 3, 2012

Mr. Flaherty had questioned Council members at that meeting if they even wanted to move forward and make an investment if there were no meaningful economic development in return. He was satisfied that his concerns were reflected in the minutes.

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***Mr. Flaherty wanted to be sure that his December 3rd query to Council members about Branch Village sewers was reflected in the minutes. He explained that he was seeking consensus on 12/3/ to proceed in studying a town-wide investment in sewers, provided that it was connected to economic development. Upon clarification by the Clerk, he was satisfied that this was reflected in the minutes.**

(*Corrected by Mr. Flaherty at the 2/19/13 Council meeting)

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 4 to 0 on an aye vote to accept the minutes of December 3, 2012.

ZONING ORDINANCE AMENDMENT RE: PARKING AND LOADING

Mr. Ericson reviewed Section 6.13.2 that references parking or storage of all commercial vehicles of over five tons gross vehicle weight. Vehicles over five tons but less than six tons would not be affected.

MOTION by Mr. Zwolenski and seconded by Mr. Yazbak to adopt this ordinance as amended.

Roll call: Mr. McGee - no; Mr. Yazbak - no; Mr. Zwolenski - yes; Mr. Flaherty - yes. The motion failed.

Mr. Ericson noted this leaves a zoning ordinance that requires 13.3 parking spaces per thousand square feet for the Walgreen's that is potentially moving into town. That is prohibitive.

ZONING ORDINANCE AMENDMENT RE: DISTRICT USE REGULATIONS

Section 5.4.1.3 -- Discussion about making chicken hens a separate line.

Section 5.4.1.8 -- Discussion about striking Unique Agricultural Pursuits.

Section 5.4.10.4 -- Mr. Zwolenski felt transfer stations should not be allowed in any district.

Mr. Ericson noted that transfer stations could be allowed in a certain district by special permit if the Council chose to do that.

Section 5.4.10.6 -- Mr. Ericson suggested striking this, "General Industrial, including on-site retail outlet."

Mr. Flaherty questioned whether the town was allowed to prohibit a particular use in every zoning district or did there have to be a provision for it somewhere.

Mr. Ericson responded that there is no requirement that a use be allowed in any zone. Also a use could just not be listed.

Mr. Paul Soares questioned why anything is allowed in open space.

Mr. Ericson stated there is a distinction between open space that is owned by the town and open space that is actually a deed restriction. Most towns that have open space allow several uses and is allowable as long as they are considered compatible.

There was a lengthy discussion about chickens.

MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted 4 to 0 on an aye vote to continue the public hearing to February 4, 2013.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted 4 to 0 on an aye vote to insert a separate category for chickens under Section 5.4.1 Agricultural Uses and that they be allowed in Zones RRC, RR and RS and not allowed in Zones RU, RV, PS, BH, BN, BA, LC, M, MU1, MU2, and OS.

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted 4 to 0 on an aye vote that Section 5.4.1.9 Farm Stand and Section 5.4.1.10 Farm Retail Sales Building will not be allowed in the Open Space zone.

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MOTION by Mr. Zwolenski, seconded by Mr. Yazbak and Mr. McGee, and voted 4 to 0 on an aye vote that Section 5.4.10.4 Transfer Station will not be allowed in a Manufacturing zone.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski and Mr. McGee, and voted 4 to 0 on an aye vote to strike out Section 5.4.10.6 General Industrial, including on-site retail outlet.

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted 4 to 0 on an aye vote to take a five-minute recess at 9:09 P.M.

The meeting resumed at 9:15 P.M.

ZONING ORDINANCE AMENDMENT RE: PARKING AND LOADING

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted 4 to 0 on an aye vote to reconsider the vote for the zoning ordinance amendment regarding Parking and Loading.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted 4 to 0 on an aye vote to continue this item to February 4, 2013.

ZONING ORDINANCE AMENDMENT RE: BUSINESS HIGHWAY ZONES

Mr. Flaherty explained the town revised its Comprehensive Plan in 2006/2007. It called for 64 zone changes throughout the town. The previous state law gave communities 18 months to bring their zoning ordinances into compliance with the plan. The law subsequently changed and now there should be some type of timetable in place to make the changes.

Mr. Ericson recommended that lots identified on Plat 21 be changed to Business Highway. He also recommended that Plat 1, Lot 46, located behind Brigido's Market should not be changed to Business Highway. Finally Mr. Ericson stated the lots identified on or near Quaker Highway could be left alone.

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 4 to 0 on an aye vote to continue the public hearing to February 19, 2013.

Eddie Dowling Highway

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted 4 to 0 on a roll call vote to accept Plat 21A as presented, changing Lots 33, 66, 67, 37, 135, 68, 51, 54, 55, 59, 52 and 21 from Neighborhood Business to Business Highway, with the understanding that Plat 21A may also be designated as Plat 21.

Victory Highway

MOTION by Mr. Yazbak, seconded by Mr. McGee and Mr. Zwolenski, and voted 4 to 0 on an aye vote to deny the proposed zone changes from Neighborhood Business to Business Highway on Plat 1 on the map dated June 11, 2012.

Quaker Highway

MOTION by Mr. McGee, seconded by Mr. Zwolenski, and voted 4 to 0 on an aye vote to continue this zone change to February 19, 2013 with a workshop and a vote.

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 4 to 0 on an aye vote at 9:55 P.M. to extend the meeting to 10:30 P.M.

APPOINTMENT TO ECONOMIC DEVELOPMENT COMMITTEE

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 4 to 0 on an aye vote to accept Ms. Hamilton's reappointment of Alfred Puccetti to the Economic Development Committee. This is a five-year term that expires on December 1, 2017.

APPOINTMENT OF 2ND ALTERNATE TO PLANNING BOARD

There was no appointment made.

APPOINTMENT TO REDEVELOPMENT AGENCY

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 4 to 0 on an aye vote to appoint Paul Leclerc to the Redevelopment Agency.

This is the completion of a five-year term that will expire on

December 1, 2016.

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APPOINTMENT TO SEWER COMMISSION

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 4 to 0 on an aye vote to appoint John Winkleman to the Sewer Commission.

This is the completion of a five-year term that will expire on December 1, 2013.

APPOINTMENT OF SEALER OF WEIGHTS AND MEASURES

***Mr. Flaherty explained that he and the Town Administration researched this position to better understand how the job duties are performed in accordance with state law and how other municipalities ensure the accuracy of scales in their communities. He further explained that the Sealer of Weights and Measures is compensated directly by scale owners, not by a town stipend. Although there is a published fee schedule for state-appointed sealers (based on scale type and ranging from \$12 to \$30), Mr. Flaherty was not able to locate a local fee structure. Ms. Hamilton reported that she was informed by the State Department of Labor and Training (DLT), which oversees weights and measures per state law, that several scales in town were not in compliance - some for more than a year and a half - and also that the town-appointed sealer did not have the proper equipment to certify pharmacy scales. She reported that the DLT offered to take over the function at no cost to the town, provided that the Town Council so requested. Mr. Flaherty explained that if the Town Council**

was interested in reducing the size of local government and improving efficiency, he couldn't think of a better place to start than consolidating this function with the State DLT. He also explained that 22 other Rhode Island municipalities assign this function to the DLT. He said he didn't believe that taxpayers wanted the Town Council to squander their limited time dealing with and overseeing this function. He therefore recommended that the Town Council request the DLT to appoint and oversee a Sealer of Weights and Measures.

*Mr. Yazbak believes this will cost small businesses more money. Mr. Flaherty asked if Mr. Yazbak had information describing the local fee structure. He did not. Mr. Flaherty concluded that we can't be sure how much more, if at all, this would cost local business owners.

(*Both paragraphs added by Mr. Flaherty at the 2/19/13 Council meeting)

*Former Sealer of Weights and Measures stated there was a book of fees used at the Town level.

(*Added by a Council member at the 2/19/13 Council meeting)

Mr. Flaherty recommended allowing the Department of Labor and Training to appoint someone. It had come to his attention that the current Sealer did not have all the proper equipment and it will not cost the town anything to have a state-appointed person.

Mr. Yazbak believes this will cost small businesses more money.

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 3 to 1 (Mr. Yazbak voted no) on an aye vote to allow the Department of Labor to appoint someone as the Sealer of Weights and Measures.

APPOINTMENT OF TREE WARDEN

MOTION by Mr. McGee, seconded by Mr. Zwolenski, and voted 4 to 0 on an aye vote to reappoint Stanley Zuba as the Tree Warden. This is a one-year term that will expire in January 2014.

RESOLUTION RE: STRONGER GUN CONTROL LAWS

Mr. Flaherty introduced and read the proposed resolution.

Several people spoke in favor of it and several spoke against it.

(MOTION by Mr. Zwolenski, seconded by Mr. Yazbak and Mr. McGee, and voted 4 to 0 on an aye vote at 10:26 P.M. to extend the meeting to 11:00 P.M.)

MOTION by Mr. Yazbak to support this resolution. The motion failed for lack of a second.

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APPOINTMENT OF SENIOR CITIZEN ADVOCATE

Ms. Hamilton reappointed Beverly Jolicoeur to this position. It is for a two-year term that expires on December 1, 2014.

ACCEPTANCE OF TOWN ROADS

Mr. Ericson stated the Town Council has not accepted subdivision roads. There is someone now who would like to use a right-of-way extension to an existing road that goes to his property and would allow him to further develop. But because the town has never accepted it, it is in a limbo status. Mr. Ericson suggested putting together a list of subdivision roads and have the Town Council accept them.

Mr. Flaherty felt the Council needs to look at the ordinance and consider whether the town has absorbed as much infrastructure as it has the capability to maintain properly.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted 3 to 1 (Mr. Flaherty voted no) on an aye vote to accept the roads in Taylor Estates.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted 4 to 0 on an aye vote to adjourn at 10:58 P.M.

Respectfully submitted,

Debra A. Todd, Town Clerk